

House File 349 - Introduced

HOUSE FILE 349

BY WATTS

A BILL FOR

1 An Act relating to energy management and regulation by
2 repealing provisions establishing the office of energy
3 independence and the Iowa power fund, repealing provisions
4 establishing the office of consumer advocate, creating
5 the Iowa energy regulatory board and transferring current
6 responsibilities of the Iowa utilities board to the
7 Iowa energy regulatory board, and including transition
8 provisions.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8A.412, subsection 11, Code 2011, is
2 amended to read as follows:

3 11. Professional employees under the supervision of the
4 attorney general, the state public defender, the secretary of
5 state, the auditor of state, the treasurer of state, and the
6 public employment relations board. ~~However, employees of the
7 consumer advocate division of the department of justice, other
8 than the consumer advocate, are subject to the merit system.~~

9 Sec. 2. Section 11.5B, subsection 15, Code 2011, is amended
10 by striking the subsection.

11 Sec. 3. Section 12.91, subsection 1, paragraph b, Code 2011,
12 is amended to read as follows:

13 b. "*Chargeable expenses*" means expenses charged by the
14 ~~utilities~~ energy regulatory board and ~~the consumer advocate~~
15 ~~division of the department of justice~~ under section 476.10.

16 Sec. 4. Section 15H.6, subsection 1, Code 2011, is amended
17 to read as follows:

18 1. The Iowa commission on volunteer service, in
19 collaboration with the department of natural resources, the
20 department of workforce development, ~~the office of energy~~
21 ~~independence~~, and the utilities energy regulatory board of the
22 department of commerce, shall establish an Iowa green corps
23 program. The commission shall work with the collaborating
24 agencies and nonprofit agencies in developing a strategy for
25 attracting additional financial resources for the program
26 from other sources which may include but are not limited to
27 utilities, private sector, and local, state, and federal
28 government funding sources. The financial resources received
29 shall be credited to the community programs account created
30 pursuant to section 15H.5.

31 Sec. 5. Section 17A.2, subsection 1, Code 2011, is amended
32 to read as follows:

33 1. "*Agency*" means each board, commission, department,
34 officer or other administrative office or unit of the state.

35 "*Agency*" does not mean the general assembly, the judicial branch

1 or any of its components, ~~the office of consumer advocate,~~
2 the governor, or a political subdivision of the state or its
3 offices and units. Unless provided otherwise by statute, no
4 less than two-thirds of the members eligible to vote of a
5 multimember agency constitute a quorum authorized to act in the
6 name of the agency.

7 Sec. 6. Section 20.4, subsection 9, Code 2011, is amended
8 to read as follows:

9 9. Persons employed by the state department of justice,
10 ~~except nonsupervisory employees of the consumer advocate~~
11 ~~division who are employed primarily for the purpose of~~
12 ~~performing technical analysis of nonlegal issues.~~

13 Sec. 7. Section 22.7, subsection 60, Code 2011, is amended
14 by striking the subsection.

15 Sec. 8. Section 68B.35, subsection 2, paragraph e, Code
16 2011, is amended to read as follows:

17 e. Members of the state banking council, the ethics and
18 campaign disclosure board, the credit union review board, the
19 economic development board, the employment appeal board, the
20 environmental protection commission, the health facilities
21 council, the Iowa finance authority, the Iowa public employees'
22 retirement system investment board, the board of the Iowa
23 lottery authority, the natural resource commission, the board
24 of parole, the petroleum underground storage tank fund board,
25 the public employment relations board, the state racing and
26 gaming commission, the state board of regents, the tax review
27 board, the transportation commission, ~~the office of consumer~~
28 ~~advocate, the utilities board, the energy regulatory board,~~
29 the Iowa telecommunications and technology commission, and
30 any full-time members of other boards and commissions as
31 defined under section 7E.4 who receive an annual salary for
32 their service on the board or commission. The Iowa ethics
33 and campaign disclosure board shall conduct an annual review
34 to determine if members of any other board, commission, or
35 authority should file a statement and shall require the filing

1 of a statement pursuant to rules adopted pursuant to chapter
2 17A.

3 Sec. 9. Section 72.5, subsection 2, Code 2011, is amended
4 to read as follows:

5 2. ~~The director of the office of energy independence~~
6 chairperson of the energy regulatory board, in consultation
7 with the department of management, state building code
8 commissioner, and state fire marshal, shall develop standards
9 and methods to evaluate design development documents and
10 construction documents based upon life cycle cost factors
11 to facilitate fair and uniform comparisons between design
12 proposals and informed decision making by public bodies.

13 Sec. 10. Section 103A.27, subsection 1, paragraph b, Code
14 2011, is amended to read as follows:

15 b. ~~The director of the office of energy independence~~
16 chairperson of the energy regulatory board, or the ~~director's~~
17 chairperson's designee.

18 Sec. 11. Section 266.39C, subsection 2, paragraph a,
19 subparagraph (6), Code 2011, is amended to read as follows:

20 (6) One representative of the ~~office of energy independence~~
21 energy regulatory board, appointed by the ~~director~~ chairperson.

22 Sec. 12. Section 266.39C, subsection 2, paragraph a,
23 subparagraphs (8) and (9), Code 2011, are amended by striking
24 the subparagraphs.

25 Sec. 13. Section 266.39C, subsection 2, paragraph a,
26 subparagraph (12), Code 2011, is amended to read as follows:

27 (12) ~~Two~~ Three representatives from investor-owned
28 utilities, one representing gas utilities, appointed by the
29 Iowa utility association, and ~~one~~ two representing electric
30 utilities, appointed by the Iowa utility association.

31 Sec. 14. Section 268.6, subsection 2, Code 2011, is amended
32 to read as follows:

33 2. The university is encouraged to cooperate with
34 agricultural and energy efficiency advocates and governmental
35 entities in administering the program, including the ~~office~~

1 ~~of energy independence established pursuant to section 469.2~~
2 energy regulatory board.

3 Sec. 15. Section 323A.2, subsection 1, paragraph c, Code
4 2011, is amended to read as follows:

5 c. The ~~director~~ chairperson of the ~~office of energy~~
6 ~~independence~~ energy regulatory board determines that the
7 franchisee has demonstrated that a special hardship exists in
8 the community served by the franchisee relating to the public
9 health, safety, and welfare, as specified under the rules of
10 the office.

11 Sec. 16. Section 470.1, Code 2011, is amended by adding the
12 following new subsections:

13 NEW SUBSECTION. 01. "*Board*" means the energy regulatory
14 board.

15 NEW SUBSECTION. 001. "*Chairperson*" means the chairperson
16 of the energy regulatory board.

17 Sec. 17. Section 470.1, subsections 2 and 8, Code 2011, are
18 amended by striking the subsections.

19 Sec. 18. Section 470.8, unnumbered paragraph 2, Code 2011,
20 is amended to read as follows:

21 The commissioner, in consultation with the ~~director~~
22 chairperson, shall, by rule, develop criteria to exempt
23 facilities from the implementation requirements of this
24 section. Using the criteria, the commissioner, in cooperation
25 with the ~~director~~ chairperson, shall exempt facilities on a
26 ~~ease-by-ease~~ case-by-case basis. Factors to be considered
27 when developing the exemption criteria shall include, but not
28 be limited to, a description of the purpose of the facility
29 or renovation, the preservation of historical architectural
30 features, site considerations, and health and safety concerns.
31 The commissioner and the ~~director~~ chairperson shall grant or
32 deny a request for exemption from the requirements of this
33 section within thirty days of receipt of the request.

34 Sec. 19. Section 473.1, Code 2011, is amended by adding the
35 following new subsections:

1 NEW SUBSECTION. 02. "*Board*" means the energy regulatory
2 board.

3 NEW SUBSECTION. 002. "*Chairperson*" means the chairperson
4 of the energy regulatory board.

5 Sec. 20. Section 473.1, subsections 3 and 5, Code 2011, are
6 amended by striking the subsections.

7 Sec. 21. Section 473.8, subsection 2, paragraph a,
8 subparagraph (4), Code 2011, is amended to read as follows:

9 (4) Delegate any administrative authority vested in the
10 governor to the ~~office~~ board or the ~~director~~ chairperson.

11 Sec. 22. Section 473.10, Code 2011, is amended to read as
12 follows:

13 **473.10 Reserve required.**

14 1. If the ~~office~~ board or the governor finds that an
15 impending or actual shortage or distribution imbalance of
16 liquid fossil fuels may cause hardship or pose a threat to the
17 health and economic well-being of the people of the state or
18 a significant segment of the state's population, the ~~office~~
19 board or the governor may authorize the ~~director~~ chairperson to
20 operate a liquid fossil fuel set-aside program as provided in
21 subsection 2.

22 2. Upon authorization by the ~~office~~ board or the governor
23 the ~~director~~ chairperson may require a prime supplier to
24 reserve a specified fraction of the prime supplier's projected
25 total monthly release of liquid fossil fuel in Iowa. The
26 ~~director~~ chairperson may release any or all of the fuel
27 required to be reserved by a prime supplier to end-users or to
28 distributors for release through normal retail distribution
29 channels to retail customers. However, the specified fraction
30 required to be reserved shall not exceed three percent for
31 propane, aviation fuel and residual oil, and five percent for
32 motor gasoline, heating oil, and diesel oil.

33 3. The ~~office~~ board shall periodically review and may
34 terminate the operation of a set-aside program authorized by
35 the ~~office~~ board under subsection 1 when the ~~office~~ board

1 finds that the conditions that prompted the authorization no
2 longer exist. The governor shall periodically review and may
3 terminate the operation of a set-aside program authorized by
4 the governor under subsection 1 when the governor finds that
5 the conditions that prompted the authorization no longer exist.

6 4. The ~~director~~ chairperson shall adopt rules to implement
7 this section.

8 Sec. 23. Section 474.9, Code 2011, is amended to read as
9 follows:

10 **474.9 General jurisdiction of utilities energy regulatory**
11 **board.**

12 The ~~utilities~~ energy regulatory board has general
13 supervision of all pipelines and all lines for the
14 transmission, sale, and distribution of electrical current
15 for light, heat, and power pursuant to chapters 476, 476A,
16 478, 479, 479A, and 479B, has general responsibility for
17 representing consumer interests in electric, gas, and telephone
18 regulatory issues at the state and federal level, and has other
19 duties as provided by law.

20 Sec. 24. Section 474.10, Code 2011, is amended to read as
21 follows:

22 **474.10 General counsel.**

23 1. The board shall employ a competent attorney to serve
24 as its general counsel, and assistants to the general counsel
25 as it finds necessary for the full and efficient discharge
26 of its duties. The general counsel is the attorney for, and
27 legal advisor of, the board and is exempt from the merit system
28 provisions of chapter 8A, subchapter IV. Assistants to the
29 general counsel are subject to the merit system provisions of
30 chapter 8A, subchapter IV. ~~The general counsel or an assistant~~
31 ~~to the general counsel shall provide the~~ Duties of the general
32 counsel, and assistants to the general counsel, shall include
33 the following:

34 a. ~~Providing~~ Providing necessary legal advice to the board in all
35 matters and ~~represent~~ representing the board in all actions

1 instituted in a state or federal court challenging the validity
2 of a rule or order of the board.

3 b. Investigating the legality of all rates, charges,
4 rules, regulations, and practices of all persons under the
5 jurisdiction of the energy regulatory board, and instituting
6 civil proceedings before the board or any court to correct
7 any illegality on the part of any such person. In any such
8 investigation, the general counsel shall have the power to
9 ask the board to issue subpoenas, compel the attendance and
10 testimony of witnesses, and the production of papers, books,
11 and documents, at the discretion of the board.

12 2. The existence of a fact which disqualifies a person from
13 election or from acting as a ~~utilities~~ an energy regulatory
14 board member disqualifies the person from employment as general
15 counsel or assistant general counsel. The general counsel
16 shall devote full time to the duties of the office. During
17 employment the counsel shall not be a member of a political
18 committee, contribute to a political campaign fund other than
19 through the income tax checkoff for contributions to the Iowa
20 election campaign fund and the presidential election campaign
21 fund, participate in a political campaign, or be a candidate
22 for a political office.

23 Sec. 25. Section 476.1B, subsection 1, paragraph a, Code
24 2011, is amended by striking the paragraph.

25 Sec. 26. Section 476.1C, subsection 2, Code 2011, is amended
26 to read as follows:

27 2. If, as a result of a review of a proposed new or
28 changed rate, charge, schedule, or regulation of a gas public
29 utility having fewer than two thousand customers, the ~~consumer~~
30 ~~advocate~~ general counsel alleges in a filing with the board
31 that the utility rates are excessive, the disputed amounts
32 shall be specified by the ~~consumer advocate~~ general counsel
33 in the filing. The gas public utility shall, within the time
34 prescribed by the board, file a bond or undertaking approved by
35 the board conditioned upon the refund in a manner prescribed

1 by the board of amounts collected after the date of the filing
 2 which are in excess of rates or charges finally determined
 3 by the board to be lawful. If after formal proceeding and
 4 hearing pursuant to section 476.6 the board finds that the
 5 utility rates are unlawful, the board shall order a refund,
 6 with interest, of amounts collected after the date of filing
 7 of the petition that are determined to be in excess of the
 8 amounts which would have been collected under the rates finally
 9 approved. However, the board shall not order a refund that
 10 is greater than the amount specified in the petition, plus
 11 interest. If the board fails to render a decision within
 12 ten months following the date of filing of the petition, the
 13 board shall not order a refund of any excess amounts that are
 14 collected after the expiration of that ten-month period and
 15 prior to the date the decision is rendered.

16 Sec. 27. Section 476.3, subsections 1 and 2, Code 2011, are
 17 amended to read as follows:

18 1. A public utility shall furnish reasonably adequate
 19 service at rates and charges in accordance with tariffs filed
 20 with the board. When there is filed with the board by any
 21 person or body politic, or filed by the board upon its own
 22 motion, a written complaint requesting the board to determine
 23 the reasonableness of the rates, charges, schedules, service,
 24 regulations, or anything done or omitted to be done by a
 25 public utility subject to this chapter in contravention of
 26 this chapter, the written complaint shall be forwarded by
 27 the board to the public utility, which shall be called upon
 28 to satisfy the complaint or to answer it in writing within a
 29 reasonable time to be specified by the board. ~~Copies of the~~
 30 ~~written complaint forwarded by the board to the public utility~~
 31 ~~and copies of all correspondence from the public utility in~~
 32 ~~response to the complaint shall be provided by the board in~~
 33 ~~an expeditious manner to the consumer advocate.~~ If the board
 34 determines the public utility's response is inadequate and
 35 there appears to be any reasonable ground for investigating

1 the complaint, the board shall promptly initiate a formal
 2 proceeding. ~~If the consumer advocate determines the public~~
 3 ~~utility's response to the complaint is inadequate, the consumer~~
 4 ~~advocate may file a petition with the board which shall~~
 5 ~~promptly initiate a formal proceeding if the board determines~~
 6 ~~that there is any reasonable ground for investigating the~~
 7 ~~complaint.~~ The complainant or the public utility also may
 8 petition the board to initiate a formal proceeding which
 9 petition shall be granted if the board determines that there
 10 is any reasonable ground for investigating the complaint. The
 11 formal proceeding may be initiated at any time by the board on
 12 its own motion. If a proceeding is initiated upon petition
 13 filed by the ~~consumer advocate,~~ complainant, or the public
 14 utility, or upon the board's own motion, the board shall set
 15 the case for hearing and give notice as it deems appropriate.
 16 When the board, after a hearing held after reasonable notice,
 17 finds a public utility's rates, charges, schedules, service,
 18 or regulations are unjust, unreasonable, discriminatory, or
 19 otherwise in violation of any provision of law, the board
 20 shall determine just, reasonable, and nondiscriminatory rates,
 21 charges, schedules, service, or regulations to be observed and
 22 enforced.

23 2. If, as a result of a review procedure conducted under
 24 section 476.31, a review conducted under section 476.32, a
 25 special audit, or an investigation by ~~division staff, or an~~
 26 ~~investigation by the consumer advocate~~ the general counsel,
 27 a petition is filed with the board by the ~~consumer advocate,~~
 28 alleging that a utility's rates are excessive, the disputed
 29 amount shall be specified in the petition. The public utility
 30 shall, within the time prescribed by the board, file a bond
 31 or undertaking approved by the board conditioned upon the
 32 refund in a manner prescribed by the board of amounts collected
 33 after the date of filing of the petition in excess of rates
 34 or charges finally determined by the board to be lawful. If
 35 upon hearing the board finds that the utility's rates are

1 unlawful, the board shall order a refund, with interest, of
2 amounts collected after the date of filing of the petition that
3 are determined to be in excess of the amounts which would have
4 been collected under the rates finally approved. However, the
5 board shall not order a refund that is greater than the amount
6 specified in the petition, plus interest, and if the board
7 fails to render a decision within ten months following the date
8 of filing of the petition, the board shall not order a refund
9 of any excess amounts that are collected after the expiration
10 of that ten-month period and prior to the date the decision is
11 rendered.

12 Notwithstanding the provisions of this subsection, ~~the~~
13 ~~consumer advocate shall not file a petition shall not be filed~~
14 under this subsection that alleges a local exchange carrier's
15 rates are excessive while the local exchange carrier is
16 participating in a price regulation plan approved by the board
17 pursuant to section 476.97.

18 Sec. 28. Section 476.6, subsection 16, paragraphs b and e,
19 Code 2011, are amended to read as follows:

20 *b.* A gas and electric utility required to be rate-regulated
21 under this chapter shall assess potential energy and capacity
22 savings available from actual and projected customer usage
23 by applying commercially available technology and improved
24 operating practices to energy-using equipment and buildings.
25 The utility shall submit the assessment to the board. Upon
26 receipt of the assessment, the board shall ~~consult with the~~
27 ~~office of energy independence to~~ develop specific capacity
28 and energy savings performance standards for each utility.
29 The utility shall submit an energy efficiency plan which
30 shall include economically achievable programs designed to
31 attain these energy and capacity performance standards. The
32 board shall periodically report the energy efficiency results
33 including energy savings of each utility to the general
34 assembly.

35 *e.* The board shall conduct contested case proceedings for

1 review of energy efficiency plans and budgets filed by gas
2 and electric utilities required to be rate-regulated under
3 this chapter. The board may approve, reject, or modify the
4 plans and budgets. Notwithstanding the provisions of section
5 17A.19, subsection 5, in an application for judicial review of
6 the board's decision concerning a utility's energy efficiency
7 plan or budget, the reviewing court shall not order a stay.
8 Whenever a request to modify an approved plan or budget is
9 filed subsequently by ~~the office of consumer advocate or a~~
10 gas or electric utility required to be rate-regulated under
11 this chapter, the board shall promptly initiate a formal
12 proceeding if the board determines that any reasonable ground
13 exists for investigating the request. The formal proceeding
14 may be initiated at any time by the board on its own motion.
15 Implementation of board-approved plans or budgets shall
16 be considered continuous in nature and shall be subject to
17 investigation at any time by the board ~~or the office of the~~
18 ~~consumer advocate.~~

19 Sec. 29. Section 476.6, subsection 21, paragraph a,
20 subparagraph (3), Code 2011, is amended to read as follows:

21 (3) The initial multiyear plan and budget and any subsequent
22 updates shall be considered in a contested case proceeding
23 pursuant to chapter 17A. The department of natural resources
24 ~~and the consumer advocate~~ shall participate as ~~parties~~ a party
25 to the proceeding.

26 Sec. 30. Section 476.10, subsections 1, 3, and 4, Code 2011,
27 are amended to read as follows:

28 1. a. In order to carry out the duties imposed upon
29 it by law, the board may, at its discretion, allocate and
30 charge directly the expenses attributable to its duties
31 to the person bringing a proceeding before the board or to
32 persons participating in matters before the board. ~~The board~~
33 ~~shall ascertain the certified expenses incurred and directly~~
34 ~~chargeable by the consumer advocate division of the department~~
35 ~~of justice in the performance of its duties.~~ The board and the

1 ~~consumer advocate separately~~ may decide not to charge expenses
 2 to persons who, without expanding the scope of the proceeding
 3 or matter, intervene in good faith in a board proceeding
 4 initiated by a person subject to the board's jurisdiction,
 5 ~~the consumer advocate,~~ or the board on its own motion. For
 6 assessments in any proceedings or matters before the board, the
 7 board ~~and the consumer advocate separately~~ may consider the
 8 financial resources of the person, the impact of assessment on
 9 participation by intervenors, the nature of the proceeding or
 10 matter, and the contribution of a person's participation to the
 11 public interest. The board may present a bill for expenses
 12 under this subsection to the person, either at the conclusion
 13 of a proceeding or matter, or from time to time during its
 14 progress. Presentation of a bill for expenses under this
 15 subsection constitutes notice of direct assessment and request
 16 for payment in accordance with this section.

17 *b.* The board shall ascertain the total of the division's
 18 expenses incurred during each fiscal year in the performance
 19 of its duties under law. ~~The board shall add to the total of~~
 20 ~~the division's expenses the certified expenses of the consumer~~
 21 ~~advocate as provided under section 475A.6.~~ The board shall
 22 deduct all amounts charged directly to any person from the
 23 total expenses of the board ~~and the consumer advocate.~~ The
 24 board may assess the amount remaining after the deduction
 25 to all persons providing service over which the board has
 26 jurisdiction in proportion to the respective gross operating
 27 revenues of such persons from intrastate operations during the
 28 last calendar year over which the board has jurisdiction. For
 29 purposes of determining gross operating revenues under this
 30 section, the board shall not include gross receipts received
 31 by a cooperative corporation or association for wholesale
 32 transactions with members of the cooperative corporation
 33 or association, provided that the members are subject to
 34 assessment by the board based upon the members' gross operating
 35 revenues, or provided that such a member is an association

1 whose members are subject to assessment by the board based upon
2 the members' gross operating revenues. If any portion of the
3 remainder can be identified with a specific type of utility
4 service, the board shall assess those expenses only to the
5 entities providing that type of service over which the board
6 has jurisdiction. The board may make the remainder assessments
7 under this paragraph on a quarterly basis, based upon estimates
8 of the expenditures for the fiscal year for the utilities
9 division ~~and the consumer advocate~~. Not more than ninety days
10 following the close of the fiscal year, the utilities division
11 shall conform the amount of the prior fiscal year's assessments
12 to the requirements of this paragraph. For gas and electric
13 public utilities exempted from rate regulation pursuant to
14 this chapter, the remainder assessments under this paragraph
15 shall be computed at one-half the rate used in computing the
16 assessment for other persons.

17 3. Whenever the board shall deem it necessary in order
18 to carry out the duties imposed upon it in connection with
19 rate regulation under section 476.6, investigations under
20 section 476.3, or review proceedings under section 476.31,
21 the board may employ additional temporary or permanent staff,
22 or may contract with persons who are not state employees for
23 engineering, accounting, or other professional services, or
24 both. The costs of these additional employees and contract
25 services shall be paid by the public utility whose rates
26 are being reviewed in the same manner as other expenses are
27 paid under this section. Beginning on July 1, 1991, there
28 is appropriated out of any funds in the state treasury not
29 otherwise appropriated, such sums as may be necessary to enable
30 the board to hire additional staff and contract for services
31 under this section. The board shall increase quarterly
32 assessments specified in subsection 1, paragraph "b", by
33 amounts necessary to enable the board to hire additional staff
34 and contract for services under this section. The authority to
35 hire additional temporary or permanent staff that is granted to

1 the board by this section shall not be subject to limitation
2 by any administrative or executive order or decision that
3 restricts the number of state employees or the filling of
4 employee vacancies, and shall not be subject to limitation
5 by any law of this state that restricts the number of state
6 employees or the filling of employee vacancies unless that
7 law is made applicable to this section by express reference
8 to this section. Before the board expends or encumbers an
9 amount in excess of the funds budgeted for rate regulation and
10 before the board increases quarterly assessments pursuant to
11 this subsection, the director of the department of management
12 shall approve the expenditure or encumbrance. Before approval
13 is given, the director of the department of management shall
14 determine that the expenses exceed the funds budgeted by the
15 general assembly to the board for rate regulation and that
16 the board does not have other funds from which the expenses
17 can be paid. Upon approval of the director of the department
18 of management the board may expend and encumber funds for
19 the excess expenses, and increase quarterly assessments to
20 raise the additional funds. The board ~~and the office of~~
21 ~~consumer advocate~~ may add additional personnel or contract
22 for additional assistance to review and evaluate energy
23 efficiency plans and the implementation of energy efficiency
24 programs including, but not limited to, professionally trained
25 engineers, accountants, attorneys, skilled examiners and
26 inspectors, and secretaries and clerks. The board ~~and the~~
27 ~~office of consumer advocate~~ may also contract for additional
28 assistance in the evaluation and implementation of issues
29 relating to telecommunication competition. The board ~~and the~~
30 ~~office of the consumer advocate~~ may expend additional sums
31 beyond those sums appropriated. However, the authority to add
32 additional personnel or contract for additional assistance
33 must first be approved by the department of management. The
34 additional sums for energy efficiency shall be provided to the
35 board ~~and the office of the consumer advocate~~ by the utilities

1 subject to the energy efficiency requirements in this chapter.
2 Telephone companies shall pay any additional sums needed for
3 assistance with telecommunication competition issues. The
4 assessments shall be in addition to and separate from the
5 quarterly assessment.

6 4. a. Fees paid to the utilities division shall be
7 deposited in the department of commerce revolving fund created
8 in section 546.12. These funds shall be used for the payment,
9 upon appropriation by the general assembly, of the expenses of
10 the utilities division ~~and the consumer advocate division of~~
11 ~~the department of justice.~~

12 b. The administrator ~~and consumer advocate~~ shall account
13 for receipts and disbursements according to the ~~separate~~ duties
14 imposed upon the utilities ~~and consumer advocate divisions~~
15 division by the laws of this state and each separate duty shall
16 be fiscally self-sustaining.

17 c. All fees and other moneys collected under this section
18 and sections 478.4, 479.16, and 479A.9 shall be deposited into
19 the department of commerce revolving fund created in section
20 546.12 and expenses required to be paid under this section
21 shall be paid from funds appropriated for those purposes.

22 Sec. 31. Section 476.10B, subsections 1 and 2, Code 2011,
23 are amended to read as follows:

24 1. For the purposes of this section, "*building project*
25 *expenses*" means expenses that have been approved by the
26 utilities board for the building and related improvements
27 and furnishings developed under this section and that are
28 considered part of the regulatory expenses charged by the
29 utilities board ~~and the consumer advocate division of the~~
30 ~~department of justice for carrying out duties under section~~
31 ~~476.10.~~

32 2. The department of administrative services, in
33 consultation with the board ~~and the consumer advocate~~
34 ~~division of the department of justice~~, shall provide for the
35 construction of a building to house the board and the division.

1 A building developed under this subsection shall be a model
2 energy-efficient building that may be used as a public example
3 for similar efforts. The building shall comply with the life
4 cycle cost provisions developed pursuant to section 72.5. The
5 building shall be located on the capitol complex grounds or
6 at another convenient location in the vicinity of the capitol
7 complex grounds.

8 Sec. 32. Section 476.53, subsection 4, Code 2011, is amended
9 to read as follows:

10 4. The ~~utilities~~ energy regulatory board and ~~the consumer~~
11 ~~advocate~~ may employ additional temporary staff, or may contract
12 for professional services with persons who are not state
13 employees, as the board and ~~the consumer advocate~~ deem
14 necessary to perform required functions as provided in this
15 section, including but not limited to review of power purchase
16 contracts, review of emission plans and budgets, and review
17 of ratemaking principles proposed for construction or lease
18 of a new generating facility. Beginning July 1, 2002, there
19 is appropriated out of any funds in the state treasury not
20 otherwise appropriated, such sums as may be necessary to enable
21 the board and ~~the consumer advocate~~ to hire additional staff
22 and contract for services under this section. The costs of
23 the additional staff and services shall be assessed to the
24 utilities pursuant to the procedure in section 476.10 and
25 ~~section 475A.6.~~

26 Sec. 33. Section 476.97, subsection 3, paragraph e, Code
27 2011, is amended to read as follows:

28 e. Providing notice to customers, and the board, ~~and the~~
29 ~~consumer advocate~~ of changes in prices, terms, or conditions
30 for basic and nonbasic communications services.

31 Sec. 34. Section 476.97, subsection 6, Code 2011, is amended
32 to read as follows:

33 6. Any person, ~~including the consumer advocate,~~ a body
34 politic, or the board on its own motion, may file a written
35 complaint pursuant to section 476.3, subsection 1, regarding a

1 local exchange carrier's implementation, operation under, or
2 satisfaction of the purposes of its price regulation plan.

3 Sec. 35. Section 476.97, subsection 7, Code 2011, is amended
4 by striking the subsection.

5 Sec. 36. Section 476.97, subsection 9, Code 2011, is amended
6 to read as follows:

7 9. The board shall determine the duration of any plan. The
8 board shall review a local exchange carrier's operation under
9 its plan, with notice and an opportunity for hearing, within
10 four years of the initiation of the plan and prior to the
11 termination of the plan. The local exchange carrier,~~consumer~~
12 ~~advocate~~, or any person may propose, and the board may approve,
13 any reasonable modifications to a local exchange carrier's
14 plan as a result of the review, except that such modifications
15 shall not require a reduction in the rates for any basic
16 communications service.

17 Sec. 37. Section 476.97, subsection 11, paragraph h,
18 unnumbered paragraph 1, Code 2011, is amended to read as
19 follows:

20 The board may review a local exchange carrier's operation
21 under this subsection, with notice and an opportunity for
22 hearing, after four years of the carrier's election to be
23 price-regulated. The local exchange carrier,~~consumer~~
24 ~~advocate~~, or any person may propose, and the board may
25 approve, any reasonable modifications to the price regulation
26 requirements in this subsection as a result of the specific
27 carrier review, with the following limitations:

28 Sec. 38. Section 476.97, subsection 11, paragraph k, Code
29 2011, is amended to read as follows:

30 *k.* The board ~~and the consumer advocate~~ may employ additional
31 temporary staff, or may contract for professional services with
32 persons who are not state employees, as the board ~~and consumer~~
33 ~~advocate deem~~ deems necessary to review a local exchange
34 carrier's operations, proposal for modifications, rate change
35 proposal, or proposed changes in aggregate revenue weighted

1 prices pursuant to this subsection. Beginning July 1, 2002,
2 there is appropriated out of any funds in the state treasury
3 not otherwise appropriated, such sums as may be necessary to
4 enable the board to hire additional staff and contract for
5 services under this subsection. The costs of the additional
6 staff and services shall be assessed to the local exchange
7 carrier pursuant to the procedures in sections 475A.6 and
8 476.10.

9 Sec. 39. Section 476.103, subsection 3, paragraph g, Code
10 2011, is amended to read as follows:

11 g. Procedures for a customer, or service provider, ~~or~~
12 ~~the consumer advocate~~ to submit to the board complaints of
13 unauthorized changes in service.

14 Sec. 40. Section 477C.5, subsection 2, Code 2011, is amended
15 to read as follows:

16 2. The council shall consist of:

17 a. ~~Six~~ Seven consumers who have communication impairments.

18 b. Two representatives from telephone companies.

19 c. One representative from the office of deaf services of
20 the department of human rights.

21 ~~d. One representative from the office of the consumer~~
22 ~~advocate of the department of justice.~~

23 e. d. One member of the board or a designee of the board.

24 Sec. 41. Section 546.12, Code 2011, is amended to read as
25 follows:

26 **546.12 Department of commerce revolving fund.**

27 1. A department of commerce revolving fund is created in
28 the state treasury. The fund shall consist of moneys collected
29 by the banking division; credit union division; utilities
30 division, ~~including moneys collected on behalf of the office~~
31 ~~of consumer advocate established in section 475A.3; and the~~
32 insurance division of the department; and deposited into an
33 account for that division or office within the fund on a
34 monthly basis. Except as otherwise provided by statute, all
35 costs for operating ~~the office of consumer advocate and the~~

1 banking division, the credit union division, the utilities
2 division, and the insurance division of the department shall be
3 paid from the division's accounts within the fund, subject to
4 appropriation by the general assembly.

5 2. To meet cash flow needs for ~~the office of consumer~~
6 ~~advocate~~ and the banking division, credit union division,
7 utilities division, or the insurance division of the
8 department, the administrative head of that division or
9 office may temporarily use funds from the general fund of the
10 state to pay expenses in excess of moneys available in the
11 revolving fund for that division or office if those additional
12 expenditures are fully reimbursable and the division or office
13 reimburses the general fund of the state and ensures all moneys
14 are repaid in full by the close of the fiscal year. Because
15 any general fund moneys used shall be fully reimbursed, such
16 temporary use of funds from the general fund of the state shall
17 not constitute an appropriation for purposes of calculating the
18 state general fund expenditure limitation pursuant to section
19 8.54.

20 Sec. 42. REPEAL. Chapter 469, Code 2011, is repealed.

21 Sec. 43. REPEAL. Chapter 475A, Code 2011, is repealed.

22 Sec. 44. CODE EDITOR DIRECTIVES.

23 1. The Code editor is directed to change the words "office
24 of energy independence" to "energy regulatory board" to the
25 extent not otherwise so changed in this Act in sections 7D.34,
26 7D.35, 8A.362, 103A.8, 103A.8B, 159A.3, 159A.6B, 272C.2,
27 279.44, 441.21, and 476.63.

28 2. The Code editor is directed to change the word "office"
29 to "board" to the extent not otherwise so changed in this Act
30 in sections 470.3, 470.7, 473.7, 473.13A, 473.15, 473.19,
31 473.19A, 473.20, 473.20A, and 473.41.

32 3. The Code editor is directed to change the words "Iowa
33 utilities board" to "Iowa energy regulatory board" to the
34 extent not otherwise so changed in this Act in sections 6A.21,
35 34A.8, and 476.27.

1 4. The Code editor is directed to change the words
2 "utilities board" to "energy regulatory board" to the extent
3 not otherwise so changed in this Act in sections 6B.45, 6B.54,
4 7A.10, 7E.6, 8A.512, 12.10, 12.91, 13.7, 28L.1, 34A.15, 68B.35,
5 266C.39C, 306A.3, 314.20, 318.9, 364.23, 384.84, 390.12,
6 422.93, 437A.3, 474.1, 474.2, 474.3, 474.4, 474.5, 474.6,
7 474.7, 474.8, 474.9, 474.10, 476.1, 476.1C, 476.10A, 476.10B,
8 476.48, 476.66, 476A.1, 476B.1, 477A.1, 477C.2, 478.1, 478.2,
9 478.3, 478.4, 478.5, 478.6, 478.7, 478.10, 478.11, 478.12,
10 478.13, 478.15, 478.18, 478.19, 478.20, 478.21, 478.24, 478.25,
11 478.26, 478.27, 478.28, 478.30, 478.31, 478.32, 478A.7, 479.1,
12 479.2, 479.5, 479A.1, 479A.2, 479B.1, 479B.2, 480.3, 657.1,
13 714D.2, 714D.6, and 714D.7.

14 Sec. 45. TRANSITION PROVISIONS — CONTINUATION OF GRANTS.

15 1. Any moneys remaining in any account or fund under the
16 control of the office of energy independence on the effective
17 date of this Act relative to the provisions of this Act shall
18 be transferred to a comparable fund or account under the
19 control of the Iowa energy regulatory board for such purposes.
20 Notwithstanding section 8.33, the moneys transferred in
21 accordance with this subsection shall not revert to the account
22 or fund from which appropriated or transferred.

23 2. Any license, permit, or contract issued or entered into
24 by the office of energy independence relative to the provisions
25 of this Act in effect on the effective date of this Act shall
26 continue in full force and effect pending transfer of such
27 licenses, permits, or contracts to the Iowa energy regulatory
28 board.

29 3. Grants or loans awarded from the Iowa power fund pursuant
30 to section 469.9 prior to the effective date of this Act shall
31 continue as provided by the terms of the grants or loans and
32 shall be administered by the Iowa energy regulatory board.

33 4. Federal funds utilized by the director of the office of
34 energy independence prior to the effective date of this Act to
35 employ personnel necessary to administer the provisions of this

1 Act shall be applicable to the transfer of such personnel from
2 the office of energy independence to the Iowa energy regulatory
3 board.

4 Sec. 46. TRANSITION PROVISIONS — RULEMAKING.

5 Administrative rules previously adopted by the office of
6 energy independence relative to the provisions of this Act in
7 existence on the effective date of this Act shall continue in
8 full force and effect until adopted, amended, or repealed by
9 the Iowa energy regulatory board.

10 EXPLANATION

11 This bill makes several changes regarding energy management
12 and regulation in this state.

13 The bill repeals Code chapter 469, which provides for
14 the establishment and administration of the office of energy
15 independence, the Iowa power fund, and related renewable
16 energy and energy efficiency projects, effective July 1,
17 2011. The bill makes a number of conforming changes deleting
18 references to the office of energy independence and the Iowa
19 power fund, and changing administration of specified energy
20 efficiency-related functions transferred to the office from the
21 department of natural resources during the 2009 Legislative
22 Session to a newly established Iowa energy regulatory board,
23 which replaces the Iowa utilities board. The bill provides
24 transition provisions regarding the transfer of moneys retained
25 in any account or fund under the control of the office of
26 energy independence on the bill's effective date to the board,
27 the continuation of any license, permit, or contract issued or
28 entered into by the office relative to the bill's provisions
29 in effect on the bill's effective date pending their transfer
30 to the board, and the continuation of grants or loans awarded
31 from the Iowa power fund prior to the bill's effective date.
32 Transition provisions are also included relating to the
33 transfer of federal funds being utilized by the director of the
34 office prior to the bill's effective date to employ personnel
35 necessary to administer the provisions of the bill to the

1 board, and relating to rulemaking.

2 The bill additionally repeals Code chapter 475A, which
3 provides for the establishment of the office of consumer
4 advocate, effective July 1, 2011. The bill makes a number
5 of conforming changes deleting references to the office, and
6 transfers specified responsibilities currently assigned to
7 the consumer advocate relating to investigating the legality
8 of rates, charges, rules, regulations, and practices of
9 persons under the jurisdiction of the Iowa utilities board,
10 and instituting legal proceedings in relation thereto, to the
11 general counsel of the newly established Iowa energy regulatory
12 board. This transfer is consistent with responsibilities
13 previously held by the position of commerce counsel, under the
14 administration of what is currently the utilities board, prior
15 to the establishment of the office of consumer advocate. The
16 bill also clarifies that the Iowa energy regulatory board shall
17 be responsible for representing consumer interests in electric,
18 gas, and telephone regulatory issues at the state and federal
19 level in addition to current responsibilities charged to the
20 utilities board in Code section 474.9.

21 In addition to transferring energy administration and
22 management functions of the office of energy independence,
23 and the above-referenced consumer-related responsibilities
24 of the office of consumer advocate, to the Iowa energy
25 regulatory board, the bill changes all Code references from
26 "Iowa utilities board" or "utilities board" to "Iowa energy
27 regulatory board" or "energy regulatory board".